

City Council Special and Regular meetings, December 10, 2002

Twin Pines Senior And Community Center 1223 Ralston Avenue

SPECIAL MEETING: 7:00 P.M.

ROLL CALL

COUNCIL MEMBERS PRESENT: Bauer, Warden, Metropulos, Wright

COUNCIL MEMBERS ABSENT: None

Staff Present: City Manager Kersnar, Assistant City Manager Rich, City Attorney Savaree, Public Works Director Davis, Finance Director Fil, Deputy City Clerk Harrington

NEW BUSINESS:

Recognition of Outstanding Public Service by Terri Cook on the Belmont City Council.

Presentation by Mayor Wright

Speakers:

Anne Campbell, Superintendent, Belmont-Redwood Shores School District, thanked Terri for her support of the school children in Belmont, and presented her with a pin.

Pam Clarke, President, Belmont Chamber of Commerce, thanked Terri for her dedication and loyalty to the City, and for her work on behalf of the business community, and presented her with flowers.

Howard Jones, Vice-President of Harbor Industrial Association, thanked Terri for being instrumental in restoring the good relationship between the City and HIA.

Council Members added individual comments.

Action: On a motion made by C. Warden, and seconded by C. Bauer, and unanimously approved by a show of hands, Resolution No. 9334 declaring the results of the Special Municipal Election held on November 5, 2002 was adopted.

Oath Of Office and Presentation of Certificate of Election to Newly Elected City Clerk Terri Cook

Mayor Wright administered the Oath to incoming City Clerk Cook. Clerk Pro Tem Metropulos presented the Certificate of Election.

City Clerk Cook thanked the citizens for supporting her for this position, she acknowledged the Council for the past year, and she stated she looked forward to a long-term commitment as City Clerk.

ADJOURN to reception, 7:15 P.M.

REGULAR MEETING - 7:40 P.M.

ROLL CALL

COUNCIL MEMBERS PRESENT: Bauer, Warden, Metropulos, Wright
COUNCIL MEMBERS ABSENT: None

Staff Present: City Manager Kersnar, Assistant City Manager Rich, City Attorney Savaree, Public Works Director Davis, Human Resources Director Dolan, Community Director Ewing, Park and Recreation Director Mittelstadt, Finance Director Fil, City Clerk Cook

PUBLIC COMMENTS AND ANNOUNCEMENTS

Ms. Grainger, 1902 Miller Avenue, has lived in Belmont since 1970's, spoke about a recent sewer spill at her home, which she has been unable to occupy since the incident. Staff was directed to contact her regarding her claim.

AGENDA AMENDMENTS

Mayor Wright announced that Item 7A would be taken out of order following the Consent calendar.

CONSENT CALENDAR

Mayor Wright asked if any council members wished to remove any items off consent for special consideration. There was no response. A member of the public requested clarification of Item F.

Amendment to employment agreement with City Manager Kersnar.

W. Gibson, 3114 E. Laurel Creek, asked how a 13% raise was arrived at considering 12% budget cuts. City Manager Kersnar responded that current salary was well below average, and the raise makes it still below average. C. Warden stated the City Manager has made significant progress and has hired

excellent people. Staff was directed to follow up with speaker if additional clarification was necessary.

Approval of meeting minutes: Special and Regular Meeting on November 12, 2002 and Special Meeting on November 21, 2002.

Approval of Warrant List dated November 22, 2002, in total amount of \$481,106.28.

Acceptance of Written Communication 1). Rec. 11/18/02 letter from PG&E re A.97-12-020, 1998 Electric Distribution Plant Additions Status Update; 2) Rec. 12/2/02 re PG&E Application 02-11-017 to the PUC re rate increase effective January 1, 2003; 3) Rec 12/2/02 from PGY&E re 2003 General Rate Case (A.02-11-017); 4) Rec. 12/02/02 letter from PG&E re response to Petition of the Office of Ratepayer Advocates

Motion to approve Claims Management Report.

Resolution No. 9336 approving contract Change Order No. 1 with Golden Bay Construction Inc. for an amount not to exceed \$55,319.00 for Traffic Calming and Sidewalk, Safe Routes to School Masonic Way Project, City Contract Number 433A.

Resolution No. 9337 approving Professional Services Agreement with Maximus, Inc. to Perform SB 90 Claims Administration Services.

Action: on motion by C. Warden, seconded by C. Bauer, and approved unanimously, by show of hands, to approve Consent Calendar as presented.

NEW BUSINESS

Consideration of Appointment to Belmont City Council or Consideration of a Special Election.

City Attorney Savaree outlined Government Code regulations regarding the council vacancy; that is, by December 12, the Council must either appoint a replacement or call for a special election to fill council vacancy, as that is the expiration of the 30-day window from the date of resignation of former Council Member Cook.

D. Lawhern, 408 Hiller, stated he did not attend interviews, there were many good candidates with good qualities. If asked who voters would choose, he felt it would be Coralin Feierbach. She has experience, will be

here long-term, has the knowledge, is a team player, and listens to people. Council has been moving forward which she will do.

P. Golder, 39 College View Way, read letter (on file in the Clerk's office) in support of appointing Coralin Feierbach. She expressed concern about the Council's parameter of a unanimous decision as opposed to just a majority. People were concerned about the cost of a special election and suggested council do a show of hands.

S. Cockshott, 2753 Yosemite, agreed with two speakers; stated that there was a lack of money for election, and that Coralin Feierbach has worked for all interests.

K. Gorzell, 2824 Monte Cresta, states he sent email that Coralin Feierbach has the most experience, and that he wants to save the cost of election.

M. South, 900 6th Avenue, states that there are 14 people with ability, she was not speaking for any one in particular, feels it's important to have a special election, is aware of costs, but people were willing to spend \$350,000 for Canyon, which is limited to a few people, but the election is of interest to people city-wide.

Mayor Wright stated that this was a very important decision that Council would be making, and outlined the process. The steps Council will take will be 1) individual Council members will give their thoughts and rationale, 2) create a finalist pool through a nomination process, 3) have a dialogue regarding individual preferences, and lastly, initiate a formal motion for appointment. If there is no unanimous consensus on an application, Council could 1) eliminate the gentlemen's agreement regarding the unanimous vote, 2) call for special election, 3) continue item for up to two days, which is the expiration of the 30-day window.

In response to C. Warden, City Attorney Savaree stated that Council could continue the meeting, and no noticing would be necessary.

City Manager Kersnar reminded Council that during the interview process the previous evening Council concurred that should they reduce the candidates to a group of finalists, non-finalists could still be considered if they could not decide on one of those finalists.

C. Bauer commented on the quality and type of applicants who applied. He stated his criteria for appointment were as follows: a team member, someone with common sense, new, fresh individual, no agenda from the past, someone who will move forward, with broad vision, understands

issues. He also stated that since the learning curve is three years, someone who has not served before could learn in three years. He also encouraged those who were not appointed to serve Belmont in other ways in the future.

C. Metropulos stated that when the appointee is seated, there would be less than three years of the term. From his experience, the first year is a learning curve. His criteria were: someone who is familiar with issues and has a track record as a team player and a citizen's advocate. It is essential to have as seamless a transition as possible, to have someone who is ready to hit the rails, has a past and future. He further stated that when he ran for Council last year, he promised he would listen to the citizens and ask for their input any time he had a major decision to make. He appreciates the input he's received on this issue, and his decision will be based on that input.

C. Warden stated he took this seriously, listened to the candidates, and needs to know where they stand on issues such as redevelopment, growth, housing, wants someone who has a track record, experience, vision, ideas, long-term planning, a do-er. The person may have a past, but he is looking at past council members, and there are team players.

Mayor Wright stated he was surprised by the number and quality of candidates, this is a win-win, and citizen input is serious. He received input regarding both experience and having a fresh face. He believes that most decisions are made incrementally, this being one of them. At first he could support experience if the appointment were for one year, but since it's not an option for council to consider, he has changed his mind. He disagrees now, and three years is a long time for an appointment. He cannot support past council, all come with an agenda. When council members are elected, their agenda becomes public. If he were to appoint a former council member, there would be a perception that he supports that public agenda, and he is unwilling to do that. He knows all four former council members and supports most of what they stand for. He stated his three criteria: 1) significant non-council community service, 2) foundation and understanding of issues, but come with opportunity to form opinions and create public agenda, and 3) withstood the test of being elected in some form.

At this time, Mayor Wright called for nominations.

C. Warden nominated Coralin Feierbach, seconded by C. Metropulos.

C. Bauer nominated Louis Vella, seconded by Mayor Wright.

Mayor Wright nominated John Violet, seconded by C. Bauer.

C. Bauer nominated Catherine Barber, there was no second.

Mayor Wright asked if Council wished to discuss the three nominees. C. Warden suggested that they ballot. City Attorney Savaree advised that the ballots would be public, would remain part of the record, but that it was permissible to ballot. She further advised that the ballots would not necessarily reflect a nominee unless a formal motion was made.

Mayor Wright suggested that they consider this a straw poll so that there is no confusion, and C. Warden further suggested that the number of votes for each candidate be announced, and the ballots be retained for public record. Council concurred.

Results of Ballot #1: 2 votes for Vella (Bauer, Wright), 2 for Feierbach (Warden, Metropulos).

C. Warden suggested they narrow the field to two candidates. Mayor Wright stated he felt that might eliminate the possibility of a compromise candidate.

C. Bauer stated Mr. Vella met his criteria, he was an elected official and is active in the neighborhood and other organizations.

C. Warden stated he had a challenge with three people on Council from one neighborhood. Mr. Vella would create a vacancy on the water board and they already had one vacancy with the retirement of Ed Morey. He stated he didn't know Vella. He further stated that Coralin Feierbach was a known quantity, loves the City, worked harder for City than anyone, served at a difficult time, and he would like to see a woman on Council. He further stated that Coralin is a catalyst, even though she lost a Council race, she now serves on Planning Commission, has earned the trust, will flourish with trust and respect, and has vision.

C. Metropulos stated he knows where she's been and where she's going. He brought minor issues to her, and she helped, even though they were small. In her interview she presented a broad range, gave vision on economic development, downtown, models from other cities, budget issues, trust and respect. He didn't vote for her the first time she ran, but he now has a new respect, she was responsive to neighborhood issues, the noise ordinance, all the little things add up. He stated when he ran for Council he promised he would listen to citizen input and decisions from others, and that of the 75 emails he received, 72 were for Cora.

Mayor Wright complimented Ms. Feierbach for her work as Mayor, has had conversations with her about downtown. He had a problem with

constituencies who presume to speak for the whole community. He received citizen input that told him they wanted a fresh voice. He knows Louis Vella from leadership classes, has known him a long time, feels he is balanced. He felt John Violet and Louis Vella make thoughtful decisions.

Council discussion ensued.

C. Warden expressed his concerns regarding the loss of institutional memory since he and the Mayor have served for only three years, and the other members for only a year. He feels that continuity is important. C. Bauer stated that he can't live with the past, and feels they need fresh perspective.

In response to C. Warden's suggestion to list pros and cons of each nominee, Mayor Wright stated that Council's decision is based on a philosophical belief of how to fill the role, and that Council was respecting each other's opinion. An analysis won't change that opinion. He also stated that with former council members there is a perception of a public agenda.

C. Warden stated he disagreed with lumping all four former council members together. They all served but did not continue to serve after they left the Council except Coralin. She's on the Planning Commission, attends Council meetings, is active in the neighborhood, people still call her for help. He does not think it's a constituency issue. He stated he received 73 letters and emails from all parts of the city, some from people he doesn't even know. He's never gotten that many letters on any one issue. He doesn't feel anyone would be upset by her appointment.

C. Bauer stated he was concerned about polarization, and that this process is becoming more uncomfortable. He wants someone who can work with Council. It's difficult to share thoughts that could be hurtful.

Mayor Wright stated that Council needs to make a decision, but continue the same level of trust.

RECESS 8:55 P.M.

RECONVENE 9:08 P.M.

Mayor Wright stated that Council was unlikely to break out of the advocacy mode, and he outlined the options. Council could 1) consider a third applicant, 2) choose one of two former Council members who agreed to resign next year so voters could vote for vacancy in November, 3) call for an election, or 4) other option.

C. Warden wanted to know what the difference was between someone in a one-year term from someone in a three-year term. Mayor Wright answered that the two former council members who offered to resign in a year would bring the institutional memory and track record that C. Warden was looking for. Mayor Wright felt it was a compromise.

C. Metropulos asked about the legality of appointing someone who will resign. City Attorney Savaree answered that the only option is to appoint for the full term. Council could trust the promise to resign, but that it was not legally binding. She clarified that the resignation would need to occur by July 11.

Mayor Wright said he could live with a six or seven month term since Council cannot leave it vacant. It would serve as a transition process. C. Warden stated he felt it was skirting the law. Council had two options, it should do one or the other.

C. Bauer stated he agreed with the spirit of the law. He felt that with the current impasse on this issue, he could support the option of a one-year consultant term. He wanted to know about the costs for a regular election in November versus a special election. City Manager Kersnar stated that the more issues there are, the costs are spread over several jurisdictions.

C. Metropulos commented on the budget cuts and the cost of a special election that might cost up to \$250,000. He also talked about the rights of voters. He said he was trying to weigh those two issues. He also stated that he had difficulties appointing someone to do city business when they are going to be there for just a short time.

C. Bauer suggested leaving the seat vacant until November and live with the consequences. City Attorney Savaree stated there were two old cases where a city council could not reach a decision regarding appointment or a special election, and lawsuits were filed. The Court forced a special election. Council concurred they did not want a lawsuit.

Additional Council discussion ensued. C. Bauer suggested another straw poll. City Manager Kersnar wanted to clarify who would be considered in the straw poll. C. Metropulos suggested it be between Ms. Feierbach and Mr. Vella.

C. Warden stated that if there was an election, Council might not get someone that will get along with them. Council should make a decision on someone they can get along with, and one builds trust by working together. He felt everyone could get along with Ms. Feierbach.

Mayor Wright stated there are five or six who are qualified, and a compromise will get Council off dead center. Maybe it won't be the first choice, but one it can feel good about. Appointing a former member who would resign for next November is a cost-effective way to get the decision to the voters. C. Warden stated he was not comfortable with the option. If Council calls for an election, it may get someone who it could have appointed, and the City will have spent the money on an election.

C. Metropulos stated that Council needs to look beyond one year. An election is the will of the people, but also can be a popularity contest. He further stated he is steadfast in his support for Ms. Feierbach.

Mayor Wright summarized John Violet's experience as an elected school board member, finance commission, and he can bring financial experience. He could be a compromise candidate.

C. Warden stated the finance commission had a gentleman's agreement to stay out of politics; it's an issue that is raised at interviews. They interview and pick their own members. He feels very strongly that appointing a finance commissioner to Council would set a bad precedent. He also stated that 70 percent of Council decisions involve land use, not finances. Budget cuts are about policy, not financial details. He stated if John were not on the finance commission, he would be a strong candidate.

Mayor Wright stated he was not going to change his mind about Ms. Feierbach, he felt the Council was at impasse, was not finding a compromise, and needed to get off center.

C. Bauer stated his first meeting was the lot merger, which was hard, but this was worse. He stated he could live with any candidate, that none of them has a desire to change Council, but they can work with Council. He was unaware of the finance commission issue.

C. Warden commented that he's tried to come up with options, but feels strongly about what people wrote and said. He didn't want to pay \$200,000 for a special election when Ms. Feierbach might get elected. He feels Mayor Wright eliminated former council members, and he has no problem with it. He suggested that Council advocate more.

Mayor Wright stated that they had candidates that any other city could appoint. He also commented that in advocacy mode, someone gives in, then feel poorly about the decision. Or the advocacy goes on and on.

(At 9:55 P.M., Council member Bauer left the dais, returned at 9:58 P.M.)

Council discussion ensued.

Mayor Wright suggested that if 70 percent of Council decisions are about land use, Council could consider Kenn Parsons, who has community service experience, but doesn't bring a public agenda.

C. Warden restated his concern about three people from the same neighborhood. He can't ignore dozens of people responding who represent hundreds. He stated for the record that he had nothing to do with the letters that Council received in support of Ms. Feierbach. He didn't know those were going to be written.

Mayor Wright stated that in the past, Council has always found a way to get off dead center, but seems to have difficulty doing so in this situation. C. Warden responded that he had philosophical issues with some of the compromises.

C. Metropulos stated that all Council members got the emails. He and Councilmember Warden seem to put more weight on that. Mayor Wright stated that he did not discount the letters, it wasn't an issue of weight. If there were no good candidates to choose from, he would understand that position.

C. Bauer suggested that Council may need to choose a third candidate.

C. Warden suggested that if Council could not agree on a former council member, it might consider George Burgess or George Kranen. Mayor Wright replied that there were options outside of the three nominees. He could support Burgess, Parsons, or Kranen. All were strong and would do a good job.

RECESS 10:06 P.M.

RECONVENE 10:16

Mayor Wright suggested they consider other options. He noted that candidates who met all three criteria were John Violet and Louis Vella, and candidates who met two of the three criteria were Kenn Parsons, George Burgess, and George Kranen. If experience or institutional knowledge is important, Council could choose Mr. Harris or Ms. Levitt, who would resign in a year.

C. Warden asked the Mayor if Ms. Feierbach offered to resign in a year, would she be acceptable. Mayor Wright said she would. He clarified that he could not support a former council member for the full term, but would do so for a one-year term. C. Warden suggested that they appoint Ms. Feierbach, then put an advisory measure on the ballot for the remainder of the term. If confirmed, she would stay, if not, she could resign the following March.

City Manager Kersnar reminded Council they could not legally enforce a voluntary action. C. Warden stated it seemed like a compromise, would be a check-in with the voters.

Candidate Feierbach came to the podium and said she liked the idea and would make a commitment.

Council discussion ensued regarding the advisory vote in November. C. Warden stated that to him it felt like an election without the cost of a June election.

Action: At 10:35 P.M., on a motion made by C. Warden, seconded by C. Metropulos, and unanimously approved by a show of hands, the meeting was extended by 15 minutes.

C. Bauer stated Council had a fiscal responsibility to consider this option, but everyone would prefer an election. Mayor Wright indicated that with the impasse, it's an option he appreciates, but it feels convoluted. C. Warden stated he wanted to stand by the gentlemen's agreement, and has a strong opinion about not disenfranchising anyone. C. Bauer said that under the circumstances he would be willing to have a 3-1 vote. C. Metropulos agreed.

City Attorney Savaree reminded Council that if it wants a 4-0 vote, Council needs to reach consensus before it formally votes.

Mayor Wright asked Council if they would support an election. C. Warden said he was trying to do what's best for the City, but he didn't want to spend the money, but could support an election to let the people decide.

C. Metropulos questioned whether there was any funding to help with this situation. City Manager Kersnar stated there was money for other activities such as team building or visioning, but not for an election. He also stated that because of the timing, the expense would be paid in next fiscal year, and the cost could be built into the budget. The money would come from the General Fund.

Action: At 10:50 P.M., on a motion made by C. Bauer, seconded by C. Warden, and unanimously approved by a show of hands, the meeting was extended by 15 minutes.

Mayor Wright stated that it was important for the Council to go through this process intact, so he could support an election. C. Bauer agreed. C. Metropulos stated that in 3 ½ hours it seems this was the only thing Council had agreed upon. Mayor Wright stated that \$250,000 was a cheap investment for keeping together.

C. Metropulos said that in a special election, any or all of these candidates could run, but that having to run an election would cull the group. He was not comfortable with the expense, but agreed that Council may have to spend it and some people wouldn't like it. But people would be disappointed if the Council became fractured.

Mayor Wright requested a straw poll, and Council concurred to support an election.

Action: On a motion made by C. Bauer, seconded by Vice-Mayor Metropulos, and approved unanimously by a show of hands, to approve Resolution No. 9338, calling for a special election on June 3, 2003 to fill the Council vacancy, and to approve Resolution No. 9339, requesting the San Mateo County Board of Supervisors to render services connected to the special election.

Action: On motion made by C. Warden, seconded by C. Bauer, to extend the meeting by 5 minutes. Approved unanimously by show of hands.

OLD BUSINESS

Direction regarding Conceptual Approach for Police Facility/City Hall Project.

Assistant City Manager Rich stated that he had a 20-minute Power Point presentation, but considering the lateness of the hour, the Council may wish to forego the full presentation. Council requested display of the slide which showed the front façade.

C. Metropulos stated that the options presented had some of the same elements as the previous design. Assistant City Manager Rich confirmed that they tried to keep as much of the design elements as possible. Except for the front façade, the other three sides had the same concept as the previous plan. The next step would be to take this to the Planning Commission.

In response to C. Metropulos, Assistant City Manager Rich confirmed Option A could be done much cheaper than the other options, with little relocation.

Mayor Wright stated that because of the hour, Council was able to deal with this item in an expedient manner was because they had read all the material. Council concurred. C. Bauer thanked the consultant for staying so late.

City Manager Kersnar stated that the structural engineer was present to answer any questions.

C. Warden asked about savings for not having a micropile design, and wanted to know what led to the design as presented. Colin Blaney, structural engineer for the Crosby Group, stated they did a different analysis procedure by using a model of the existing structure. There may be some micropile required for the interior, but it was eliminated on the exterior. This helps minimize relocation.

C. Bauer wanted to know about the parking requirement. Assistant City Manager Rich stated the issue is cost. Council could provide direction, but it was not needed to move forward at this time. Current parking allows for 140 chairs.

C. Warden requested that the bid estimate be realistic.

Mayor Wright stated that his preference would be for permanent seating for the council chambers. There was general consensus that this option provided for a great council chambers.

Action: on a motion made by C. Warden, seconded by C. Bauer, "Option A with Council Chambers" was approved unanimously by a show of hands.

Status Report on Revisions to Single Family Design Review.

Continued to 1/14/03

Restructure of the Public Works Department to Performance Budgeting and Citywide summary.

Continued to 1/14/03

Oath of Office for newly appointed City Councilmember.

No action.

BOARD, COMMISSION, COMMITTEE UPDATES, AND STAFF REPORTS

Reorganization of Council Intergovernmental Assignments for 2003.

Action: On a motion by C. Metropulos, seconded by C. Warden, and approved unanimously by a show of hands, to extend Council Member Bauer's Fire Board assignment until the next Council meeting of January 14, 2003.

The remainder of assignments will be continued to January 14, 2003.

Report on GASB 34 Model.

Continued to 1/14/03

ADJOURNMENT 11:10 P.M.

Terri Cook

CityClerk

Meeting Tape Recorded and Videotaped

Tape No. 543